

**EXHIBIT 14**

Contains Confidential Portions

Page 1

1 JESSE ANGELO  
2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
3 -----X  
SANDRA GUZMAN,  
4 Plaintiff,  
5 -against- 09CIV9323 (BSJ) (RLE)  
6 NEWS CORPORATION, NYP HOLDINGS, INC., d/b/a  
THE NEW YORK POST, and COL ALLAN, in his  
7 official and individual capacities,  
8

Defendants.  
9 -----X  
AUSTIN FENNER and IKIMULISA LIVINGSTON,  
10  
11 Plaintiffs,  
12 -against- 09CIV9832 (BSJ) (RLE)  
13 NEWS CORPORATION, NYP HOLDINGS, INC., d/b/a  
THE NEW YORK POST and DAN GREENFIELD and  
14 MICHELLE GOTTHELF,  
15 Defendants.

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18 VIDEOTAPED DEPOSITION OF JESSE ANGELO  
19 New York, New York  
20 Wednesday, April 25, 2012  
21

22 REPORTED BY: BARBARA R. ZELTMAN  
(BOBBIE)  
23 Professional Stenographic Reporter  
24

24

25 Job Number: 48821

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| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 210</p> <p>1 <b>JESSE ANGELO - CONFIDENTIAL</b><br/> 2 you have ever supervised William Gorta?<br/> 3 A Yes.<br/> 4 <b>Q I skipped over him because I want</b><br/> 5 <b>to talk about him a little more.</b><br/> 6 <b>I guess to start, was William Gorta</b><br/> 7 <b>a good writer?</b><br/> 8 A Yes.<br/> 9 <b>Q Did William Gorta have any</b><br/> 10 <b>problems, from your point of view, as a</b><br/> 11 <b>writer?</b><br/> 12 A My main recollection of working<br/> 13 with Billy Gorta was him as an editor. I<br/> 14 don't have strong recollections of him as<br/> 15 a writer.<br/> 16 I don't recall him having problems<br/> 17 as a writer.<br/> 18 <b>Q What about him as an editor. Did</b><br/> 19 <b>you have any problems with him as an editor?</b><br/> 20 A Yes.<br/> 21 <b>Q What kind of problems did you have?</b><br/> 22 A Lack of leadership. Bad attitude.<br/> 23 Not giving enough effort.<br/> 24 (Whereupon, this marks the end of<br/> 25 Confidential testimony.)<br/> TSG Reporting - Worldwide 877-702-9580</p>                    | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 211</p> <p>1 <b>JESSE ANGELO</b><br/> 2 <b>MR. CLARK:</b> Could you mark this<br/> 3 next one as 13.<br/> 4 (Angelo Exhibit 13, E-mail<br/> 5 dated Wednesday, February 13, 2008,<br/> 6 7:16 p.m., Bates Number<br/> 7 NYP-FL-003926, was marked for<br/> 8 Identification.)<br/> 9 <b>BY MR. CLARK:</b><br/> 10 <b>Q This is Bates-stamped NYP-FL-3926.</b><br/> 11 <b>Have you had a chance to look at</b><br/> 12 <b>it?</b><br/> 13 A Yes.<br/> 14 <b>Q Do you recognize the e-mail that is</b><br/> 15 <b>reproduced in Angelo 13?</b><br/> 16 A Yes.<br/> 17 <b>Q Did you write this e-mail?</b><br/> 18 A Yes.<br/> 19 <b>Q Can you just -- let's go through it</b><br/> 20 <b>sentence by sentence.</b><br/> 21 <b>Can you read that first sentence</b><br/> 22 <b>for me.</b><br/> 23 A "As we discussed yesterday, I'm<br/> 24 concerned about your attitude in the<br/> 25 newsroom and do not want to see it become a<br/> TSG Reporting - Worldwide 877-702-9580</p>   |
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 212</p> <p>1 <b>JESSE ANGELO</b><br/> 2 major issue."<br/> 3 <b>Q So is that accurate, what you</b><br/> 4 <b>stated there? In other words, was there a</b><br/> 5 <b>discussion in the newsroom with Billy Gorta</b><br/> 6 <b>the day before this e-mail went out?</b><br/> 7 A I don't recall where the discussion<br/> 8 occurred.<br/> 9 <b>Q Do you remember having a discussion</b><br/> 10 <b>with Billy Gorta?</b><br/> 11 A Yes.<br/> 12 <b>Q What did you discuss with --</b><br/> 13 A Actually, I'll clarify the earlier<br/> 14 question. I do remember where the<br/> 15 discussion was. It was in my office which<br/> 16 is off the newsroom.<br/> 17 <b>Q Fair enough.</b><br/> 18 <b>So did you call him into the</b><br/> 19 <b>office?</b><br/> 20 A I don't recall how the conversation<br/> 21 was initiated.<br/> 22 <b>Q Was the conversation specifically</b><br/> 23 <b>to address his behavior or did it just come</b><br/> 24 <b>up in some other context?</b><br/> 25 A Again, I don't recall if I<br/> TSG Reporting - Worldwide 877-702-9580</p> | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 213</p> <p>1 <b>JESSE ANGELO</b><br/> 2 initiated it to discuss his behavior or if<br/> 3 we were having another discussion and I also<br/> 4 discussed that. I don't recall the<br/> 5 initiation of the discussion.<br/> 6 <b>Q Could you go on and read the second</b><br/> 7 <b>sentence for me, please.</b><br/> 8 A "Being rude and abusive to<br/> 9 colleagues, unnecessary negativity, lack of<br/> 10 leadership. I and the rest of your<br/> 11 colleagues expect better and you are capable<br/> 12 of better."<br/> 13 <b>Q So is it accurate that Mr. Gorta</b><br/> 14 <b>was rude and abusive to colleagues?</b><br/> 15 A He could be on occasion. That is<br/> 16 why I am giving him this warning.<br/> 17 <b>Q How often do you recall him in the</b><br/> 18 <b>early part of 2008 being rude and abusive to</b><br/> 19 <b>colleagues?</b><br/> 20 A I wouldn't want to quantify it now,<br/> 21 but obviously it had become enough of an<br/> 22 issue. It was something that I had seen<br/> 23 that I wanted to speak to him about it and<br/> 24 warn him about it and tell him that I was<br/> 25 concerned that it can become a major issue,<br/> TSG Reporting - Worldwide 877-702-9580</p> |

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| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 258</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>develop and refine his editing skills?</b></p> <p>3 A I can't speak to that.</p> <p>4 (Angelo Exhibit 18, APA, FY</p> <p>5 2009, Bates Numbers NYP-FL-001322</p> <p>6 through NYP-FL-001325, was marked</p> <p>7 for Identification.)</p> <p>8 THE WITNESS: Okay.</p> <p>9 BY MR. CLARK:</p> <p>10 Q <b>Have you seen this document before?</b></p> <p>11 A Not that I recall.</p> <p>12 Q <b>This appears to be a performance</b></p> <p>13 <b>evaluation for Billy Gorta for 2009,</b></p> <p>14 <b>correct?</b></p> <p>15 A Yes.</p> <p>16 Q <b>Do you have any reason to think</b></p> <p>17 <b>that this is not his final performance</b></p> <p>18 <b>evaluation?</b></p> <p>19 A No.</p> <p>20 Q <b>Where it says "Position" it says</b></p> <p>21 <b>"Reporter, Queens Court."</b></p> <p>22 <b>Is that accurate?</b></p> <p>23 A I'm sorry. Which page are you on?</p> <p>24 Q <b>On the first page.</b></p> <p>25 A Yes.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>  | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 259</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 Q <b>So in 2009, Bill Gorta was the</b></p> <p>3 <b>Queens Courthouse reporter, correct?</b></p> <p>4 MR. LERNER: Objection.</p> <p>5 Foundation.</p> <p>6 A I know that for some period of time</p> <p>7 after he was demoted from being an associate</p> <p>8 Metropolitan editor back to being a</p> <p>9 reporter, there was a portion of time where</p> <p>10 he was assigned to the Queens Courthouse. I</p> <p>11 don't know the duration or when exactly that</p> <p>12 was. So again, this performance appraisal</p> <p>13 would imply that it was in some portion of</p> <p>14 2009.</p> <p>15 Q <b>Did you have any role in</b></p> <p>16 <b>supervising Billy Gorta when he was Queens</b></p> <p>17 <b>County Courthouse?</b></p> <p>18 A No.</p> <p>19 Q <b>Do you have any direct firsthand</b></p> <p>20 <b>knowledge of his performance as Queens</b></p> <p>21 <b>Courthouse reporter?</b></p> <p>22 A No.</p> <p>23 Q <b>I want to refer you to again the</b></p> <p>24 <b>Areas of Focus Improvement.</b></p> <p>25 <b>It says "William needs to work on</b></p> <p><b>TSG Reporting - Worldwide 877-702-9580</b></p> |
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 260</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>his writing so he doesn't immediately need</b></p> <p>3 <b>rewrite for major trials."</b></p> <p>4 <b>Do you see that?</b></p> <p>5 A Yes.</p> <p>6 Q <b>In your experience as an editor,</b></p> <p>7 <b>would it be unusual for court reporters to</b></p> <p>8 <b>need rewriting for trials?</b></p> <p>9 MR. LERNER: Objection.</p> <p>10 A Yes.</p> <p>11 Q <b>So this was an area where William</b></p> <p>12 <b>really would have been deficient?</b></p> <p>13 MR. LERNER: Objection.</p> <p>14 A I can't say that. I have</p> <p>15 absolutely no knowledge of his performance</p> <p>16 when he worked as Queens Courthouse</p> <p>17 reporter.</p> <p>18 Q <b>I understand that. Do you have any</b></p> <p>19 <b>reason to doubt if Michelle Gotthelf wrote</b></p> <p>20 <b>in an APA that "William needs to work on his</b></p> <p>21 <b>writing so he doesn't immediately need to</b></p> <p>22 <b>rewrite for trials," would you expect that</b></p> <p>23 <b>be to a true statement?</b></p> <p>24 MR. LERNER: Objection.</p> <p>25 A Yes.</p> <p>TSG Reporting - Worldwide 877-702-9580</p> | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 261</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 Q <b>So needing to have stories</b></p> <p>3 <b>rewritten as a reporter, is that a serious</b></p> <p>4 <b>problem?</b></p> <p>5 MR. LERNER: Objection.</p> <p>6 A Not necessarily.</p> <p>7 Q <b>Do lots of reporters need to have</b></p> <p>8 <b>their stories rewritten?</b></p> <p>9 MR. LERNER: Objection.</p> <p>10 Q <b>Let me rephrase it.</b></p> <p>11 <b>Is it unusual for reporters to need</b></p> <p>12 <b>to have their stories rewritten?</b></p> <p>13 MR. LERNER: Objection.</p> <p>14 A No.</p> <p>15 Q <b>How frequently in your experience</b></p> <p>16 <b>do reporters need to have their stories</b></p> <p>17 <b>rewritten?</b></p> <p>18 MR. LERNER: Objection.</p> <p>19 A A reporter that's functioning as</p> <p>20 rewrite can serve a number of roles.</p> <p>21 So a reporter that is covering a</p> <p>22 story that may be out of the office would</p> <p>23 often, can -- and it happens with</p> <p>24 regularity -- feed notes to a rewrite</p> <p>25 person.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>   |

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| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 278</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 A No, I'm not. Sorry.</p> <p>3 <b>Q United States Supreme Court is not</b></p> <p>4 <b>an important beat?</b></p> <p>5 MR. LERNER: Objection.</p> <p>6 A Once again --</p> <p>7 MR. LERNER: His testimony was</p> <p>8 there was no Supreme Court beat.</p> <p>9 MR. CLARK: His testimony is</p> <p>10 all beats are equal, which is clearly</p> <p>11 not true.</p> <p>12 MR. LERNER: Hold on. There's</p> <p>13 no question pending.</p> <p>14 <b>Q Is your testimony all beats are</b></p> <p>15 <b>equal.</b></p> <p>16 <b>The United States Supreme reporter</b></p> <p>17 <b>and runner reporter, one beat is just as</b></p> <p>18 <b>good as the next.</b></p> <p>19 <b>Is that your testimony?</b></p> <p>20 MR. LERNER: Objection.</p> <p>21 A I don't believe that is an accurate</p> <p>22 description of my testimony.</p> <p>23 <b>Q So a reporter assigned to the</b></p> <p>24 <b>United States Supreme Court would have a</b></p> <p>25 <b>more important beat than a runner reporter?</b></p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 279</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 MR. LERNER: Objection.</p> <p>3 A Again, this hypothetical position</p> <p>4 covering the United States Supreme Court for</p> <p>5 The New York Post does not exist. I've</p> <p>6 never heard of that beat occurring at</p> <p>7 The New York Post.</p> <p>8 So making a hypothetical comparison</p> <p>9 between something that doesn't exist and</p> <p>10 another job that you are describing in</p> <p>11 incredibly broad terms, I don't feel</p> <p>12 comfortable making that comparison.</p> <p>13 <b>Q Would it be reasonable for someone,</b></p> <p>14 <b>for a reporter who would cover a courthouse</b></p> <p>15 <b>and then sent to be a runner reporter to</b></p> <p>16 <b>consider that to be a demotion?</b></p> <p>17 MR. LERNER: Objection.</p> <p>18 A It is not a demotion. It is a</p> <p>19 reassignment to a different role.</p> <p>20 <b>Q Well, Mr. Gorta was reassigned,</b></p> <p>21 <b>right?</b></p> <p>22 A Mr. Gorta was demoted from being an</p> <p>23 associate Metropolitan editor to being a</p> <p>24 reporter.</p> <p>25 That was the demotion.</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> |
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 280</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>Q So why isn't it a demotion to go</b></p> <p>3 <b>from courthouse reporter to runner reporter?</b></p> <p>4 MR. LERNER: Objection.</p> <p>5 Argumentative.</p> <p>6 A They're different roles. They're</p> <p>7 both reporters. They're just different</p> <p>8 roles. It's not a demotion.</p> <p>9 MR. CLARK: Could we mark this</p> <p>10 as 20.</p> <p>11 (Angelo Exhibit 20, E-mail</p> <p>12 dated Monday, January, 30, 2006,</p> <p>13 3:52 p.m., Bates Number IL-597, was</p> <p>14 marked for Identification.)</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. CLARK:</p> <p>17 <b>Q This appears to be another e-mail</b></p> <p>18 <b>dated a few days later from Ms. Livingston</b></p> <p>19 <b>to you, correct?</b></p> <p>20 A Yes.</p> <p>21 <b>Q And she asks again about the Queens</b></p> <p>22 <b>Courthouse position?</b></p> <p>23 A Yes.</p> <p>24 <b>Q Do you recall or does this refresh</b></p> <p>25 <b>your recollection you had any discussions or</b></p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>                       | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 281</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>e-mails with Ms. Livingston between the</b></p> <p>3 <b>first e-mail on Friday and the next e-mail</b></p> <p>4 <b>on Monday?</b></p> <p>5 A I don't recall any discussions with</p> <p>6 Ms. Livingston in the time frame that you</p> <p>7 described.</p> <p>8 <b>Q But you don't know if you did or</b></p> <p>9 <b>you didn't. You just don't recall?</b></p> <p>10 A I don't recall having those</p> <p>11 conversations.</p> <p>12 <b>Q In her e-mail dated the 30th,</b></p> <p>13 <b>which is 20, she references that in 2004 she</b></p> <p>14 <b>asked to be considered for the Queens</b></p> <p>15 <b>Courthouse position.</b></p> <p>16 <b>Do you know if that's a true</b></p> <p>17 <b>statement?</b></p> <p>18 A I don't recall.</p> <p>19 <b>Q Do you remember if you ever</b></p> <p>20 <b>investigated whether that was a true</b></p> <p>21 <b>statement?</b></p> <p>22 A Do I recall if I investigated if</p> <p>23 that was a true statement.</p> <p>24 <b>Q In other words, do you recall if</b></p> <p>25 <b>you investigated whether she had applied in</b></p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>    |

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| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 282</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>2004 for the position?</b></p> <p>3 MR. LERNER: Objection.</p> <p>4 A No, I don't recall investigating</p> <p>5 whether she -- the truth of the statement</p> <p>6 she had applied in 2004.</p> <p>7 <b>Q Do you have any reason to believe</b></p> <p>8 <b>that she had not applied in 2004 for the</b></p> <p>9 <b>Queens Courthouse position?</b></p> <p>10 MR. LERNER: Objection.</p> <p>11 A No.</p> <p>12 MR. CLARK: Mark this as 21.</p> <p>13 (Angelo Exhibit 21, E-mail</p> <p>14 dated Thursday, February 16, 2006,</p> <p>15 5:51 p.m., Bates Number</p> <p>16 NYP-FL-001947, was marked for</p> <p>17 Identification.)</p> <p>18 BY MR. CLARK:</p> <p>19 <b>Q It's very short, so take a minute</b></p> <p>20 <b>and read it.</b></p> <p>21 <b>This is Bates-stamped NYP-FL-1947.</b></p> <p>22 <b>And as you can see, this appears to</b></p> <p>23 <b>be an e-mail from Michelle Gotthelf to you,</b></p> <p>24 <b>Mr. Angelo, dated February 16, 2006.</b></p> <p>25 <b>Could you read that for me?</b></p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>   | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 283</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 A "Might as well give Kim Queens.</p> <p>3 She's shown she can write pretty well off</p> <p>4 press releases."</p> <p>5 <b>Q So obviously, this was what</b></p> <p>6 <b>Michelle said to you, correct?</b></p> <p>7 A It is an e-mail from Michelle to</p> <p>8 me, yes. Or appears to be a facsimile</p> <p>9 thereof, yes.</p> <p>10 <b>Q Do you remember receiving this</b></p> <p>11 <b>e-mail from Michelle Gotthelf?</b></p> <p>12 A No, I do not.</p> <p>13 <b>Q Do you agree with the statement</b></p> <p>14 <b>that Kim had shown she can write pretty well</b></p> <p>15 <b>off press releases?</b></p> <p>16 A I wanted to put Kim into Queens</p> <p>17 Court, I recall, because I wanted to give</p> <p>18 her a new role and give her a chance to</p> <p>19 succeed.</p> <p>20 <b>Q Why did you specifically want her</b></p> <p>21 <b>for the role of Queens Courthouse reporter?</b></p> <p>22 MR. LERNER: Objection.</p> <p>23 A She had been doing a role in the</p> <p>24 newsroom where she had not been successful,</p> <p>25 and as an editor, you're constantly trying</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> |
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 284</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 to find the right role for a reporter</p> <p>3 wherein they're going to contribute to the</p> <p>4 newspaper and be successful.</p> <p>5 She hadn't been successful in the</p> <p>6 role she was doing in the newsroom.</p> <p>7 Again, I don't recall these e-mails</p> <p>8 of her putting her head up for the beat, but</p> <p>9 when the beat came open, I remember thinking</p> <p>10 and discussing with Michelle that it might</p> <p>11 be a really good role for Kim, that perhaps</p> <p>12 she would work well in the Queens</p> <p>13 Courthouse.</p> <p>14 So that was my recollection of how</p> <p>15 she came to be given the role of Queens</p> <p>16 Courthouse.</p> <p>17 <b>Q Why do you think she might work</b></p> <p>18 <b>well in the Queens Courthouse?</b></p> <p>19 A Because when she was a reporter in</p> <p>20 the newsroom, one of the key things that she</p> <p>21 was supposed to be doing was generating</p> <p>22 story ideas, and she was not having success</p> <p>23 doing that.</p> <p>24 And one of the things about the</p> <p>25 role of a courthouse reporter is that there</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 285</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 are a lot of stories that are occurring in</p> <p>3 front of you.</p> <p>4 There are filings in civil cases,</p> <p>5 there are criminal cases that are moving</p> <p>6 through a courthouse. Therefore, the burden</p> <p>7 of trying to come up with story ideas out of</p> <p>8 thin air, so to speak, is less, so I thought</p> <p>9 that maybe having -- as well as having</p> <p>10 ownership of a patch, ownership of a</p> <p>11 physical area, might help her to be more</p> <p>12 successful in her role as reporter.</p> <p>13 <b>Q So you felt this was a good fit for</b></p> <p>14 <b>Kim?</b></p> <p>15 MR. LERNER: Objection.</p> <p>16 A I wanted to try and see if we could</p> <p>17 find a role for Kim wherein she could be</p> <p>18 successful.</p> <p>19 And I thought this might be a role</p> <p>20 where she would be successful.</p> <p>21 MR. CLARK: We're out of tape,</p> <p>22 so let's take five to change things.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 5:15. We're going of the record.</p> <p>25 (A brief recess was</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>                            |



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| <p>Contains Confidential Portions</p> <p>Page 286</p> <p>1 JESSE ANGELO</p> <p>2 taken.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 5:26. We're back on the record.</p> <p>5 BY MR. CLARK:</p> <p>6 Q Mr. Angelo, did Kim Livingston ever</p> <p>7 pitch stories to you?</p> <p>8 A Yes.</p> <p>9 Q How frequently did she pitch</p> <p>10 stories to you?</p> <p>11 MR. LERNER: Objection.</p> <p>12 Q Obviously -- well, let me clarify.</p> <p>13 When you were Metropolitan editor</p> <p>14 and she worked for you, how frequently did</p> <p>15 she pitch stories to you?</p> <p>16 A I don't recall the frequency.</p> <p>17 Q So you're not suggesting she never</p> <p>18 pitched stories?</p> <p>19 A No.</p> <p>20 Q She did pitch some stories,</p> <p>21 correct?</p> <p>22 A Yes.</p> <p>23 Q But your view was she was not</p> <p>24 pitching enough stories?</p> <p>25 MR. LERNER: Objection.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>   | <p>Contains Confidential Portions</p> <p>Page 287</p> <p>1 JESSE ANGELO</p> <p>2 A She was not having success in</p> <p>3 generating enough stories, of enterprise</p> <p>4 stories that were making it to the paper.</p> <p>5 Q Tell me what you mean by "an</p> <p>6 enterprise story."</p> <p>7 A An enterprise story is a story that</p> <p>8 you're not assigned by an editor but where</p> <p>9 you are generating an idea. It could be</p> <p>10 an avenue that's worth pursuing on a news</p> <p>11 story. It could be a feature. It could be</p> <p>12 an investigation. It could be anything.</p> <p>13 It's coming up with an idea for a</p> <p>14 story that you're not being assigned that's</p> <p>15 sort of the news of that day particularly.</p> <p>16 Just trying to generate something that is</p> <p>17 different from what you might see in other</p> <p>18 news outlets.</p> <p>19 Q Was your criticism of</p> <p>20 Ms. Livingston that she was not pitching</p> <p>21 enough stories or that she was not pitching</p> <p>22 stories that made it into the paper?</p> <p>23 MR. LERNER: Objection.</p> <p>24 Q Or both?</p> <p>25 MR. LERNER: Can you just give</p> <p>TSG Reporting - Worldwide 877-702-9580</p> |
| <p>Contains Confidential Portions</p> <p>Page 288</p> <p>1 JESSE ANGELO</p> <p>2 us a time frame?</p> <p>3 Q While you were Metro Desk editor.</p> <p>4 MR. LERNER: That's a long</p> <p>5 time.</p> <p>6 Q Let's start with 2006.</p> <p>7 Would this criticism that you just</p> <p>8 announced -- let me back up.</p> <p>9 You just had a criticism of</p> <p>10 Ms. Livingston was not pitching enough</p> <p>11 enterprise stories.</p> <p>12 What time are you talking about?</p> <p>13 A I think that's a</p> <p>14 mischaracterization of what I said. It was</p> <p>15 not a criticism for not pitching enough. It</p> <p>16 was for not having enough success in coming</p> <p>17 up with ideas, getting them approved and</p> <p>18 having them executed and appear in the</p> <p>19 newspaper.</p> <p>20 She was not having enough success</p> <p>21 in generating ideas that were then okayed</p> <p>22 and then executed and put into the</p> <p>23 newspaper.</p> <p>24 Q So was it the case that she was</p> <p>25 pitching ideas but they were not ideas that</p> <p>TSG Reporting - Worldwide 877-702-9580</p> | <p>Contains Confidential Portions</p> <p>Page 289</p> <p>1 JESSE ANGELO</p> <p>2 made it into final print?</p> <p>3 MR. LERNER: Objection.</p> <p>4 (Requested portion of record read:</p> <p>5 "Q. So was it the case that she</p> <p>6 was pitching ideas but they were not</p> <p>7 ideas that made it into final print?")</p> <p>8 (End of read-back.)</p> <p>9 A Again, what time --</p> <p>10 Q I'm trying to understand what your</p> <p>11 criticism is. Your criticism is she was not</p> <p>12 pitching enough story ideas, or was your</p> <p>13 criticism that the story ideas she was</p> <p>14 pitching were not good enough to make it</p> <p>15 into print?</p> <p>16 MR. LERNER: Again, this is in</p> <p>17 2006?</p> <p>18 MR. CLARK: In the period that</p> <p>19 Mr. Angelo just testified about?</p> <p>20 MR. LERNER: I'm sorry. I</p> <p>21 think you defined the period by</p> <p>22 responding to my question, and I</p> <p>23 believe you said, "Let's start with</p> <p>24 2006."</p> <p>25 And I just want to clarify that</p> <p>TSG Reporting - Worldwide 877-702-9580</p>   |

|   |  |
|---|--|
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 334</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>Michelle Gotthelf, Col Allan, any employee</b></p> <p>3 <b>of The New York Post talk to you about the</b></p> <p>4 <b>decision to fire Austin Fenner prior to the</b></p> <p>5 <b>filing of the lawsuit?</b></p> <p>6 A Yes.</p> <p>7 <b>Q Who talked to you about that</b></p> <p>8 <b>decision?</b></p> <p>9 A Michelle.</p> <p>10 <b>Q Other than the conversation with</b></p> <p>11 <b>Michelle, is there anyone else?</b></p> <p>12 A No, not that I recall.</p> <p>13 <b>Q So during the conversation when she</b></p> <p>14 <b>said she was not satisfied, she indicated</b></p> <p>15 <b>she wanted to fire him?</b></p> <p>16 MR. LERNER: Objection.</p> <p>17 A My recollection is that Michelle</p> <p>18 was not satisfied with Austin's performance</p> <p>19 for a period of time, and then I remember</p> <p>20 her saying that she was going to let him go.</p> <p>21 I don't recall the sequence -- how</p> <p>22 long that process was. I just remember</p> <p>23 being vaguely aware of her dissatisfaction</p> <p>24 and then decision to terminate his</p> <p>25 employment.</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 335</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>Q These were two different</b></p> <p>3 <b>conversations, correct?</b></p> <p>4 A Again, I don't have specific</p> <p>5 recollections of specific conversations, but</p> <p>6 I know that it wasn't one conversation where</p> <p>7 both of those things occurred. I remember</p> <p>8 that it was a period of time. But I don't</p> <p>9 recall specific conversations I had with</p> <p>10 her.</p> <p>11 <b>Q You have "Three things that need</b></p> <p>12 <b>fixing at The New York Post" published by</b></p> <p>13 <b>Journalisms.</b></p> <p>14 <b>You never read that article before?</b></p> <p>15 A No.</p> <p>16 MR. CLARK: Mark this as 28.</p> <p>17 And again, this is a long article. I</p> <p>18 don't want you to read the whole</p> <p>19 thing. I just want you to glance at</p> <p>20 the cover and tell me if it refreshes</p> <p>21 your recollection. It's not worth</p> <p>22 reading the whole thing.</p> <p>23 (Angelo Exhibit 28, Article,</p> <p>24 Bates Numbers AF-34 through AF-44,</p> <p>25 was marked for Identification.)</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>  |
| <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 336</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>BY MR. CLARK:</b></p> <p>3 <b>Q Again, I don't want you to read the</b></p> <p>4 <b>whole thing.</b></p> <p>5 <b>Does this refresh your recollection</b></p> <p>6 <b>of ever having seen this before?</b></p> <p>7 A No.</p> <p>8 <b>Q Okay. That's fine.</b></p> <p>9 <b>Did you ever directly supervise</b></p> <p>10 <b>Sandra Guzman?</b></p> <p>11 A No.</p> <p>12 <b>Q When did you first meet Sandra</b></p> <p>13 <b>Guzman -- let me take a step back.</b></p> <p>14 <b>Had you ever met Sandra Guzman?</b></p> <p>15 A Yes.</p> <p>16 <b>Q When did you first meet her?</b></p> <p>17 A I don't recall.</p> <p>18 <b>Q Do you know an approximate year?</b></p> <p>19 <b>Did you ever meet her prior to her</b></p> <p>20 <b>coming to work for The New York Post?</b></p> <p>21 A No.</p> <p>22 <b>Q So you first met her during her</b></p> <p>23 <b>employment?</b></p> <p>24 A Yes. Or around the time of.</p> <p>25 <b>Q Do you remember what your position</b></p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p>   | <p style="text-align: center;">Contains Confidential Portions</p> <p style="text-align: right;">Page 337</p> <p>1 <b>JESSE ANGELO</b></p> <p>2 <b>at the paper was when you met her?</b></p> <p>3 A I was City editor.</p> <p>4 <b>Q Did you -- and were you still City</b></p> <p>5 <b>editor when she left? Or had you been</b></p> <p>6 <b>promoted at that time?</b></p> <p>7 A When did she leave?</p> <p>8 <b>Q She left in 2009. September 2009,</b></p> <p>9 <b>I believe.</b></p> <p>10 A No, I was not City editor.</p> <p>11 <b>Q Did you or any of your reporters</b></p> <p>12 <b>ever contribute to the Tempo section. I</b></p> <p>13 <b>mean, not you directly but did you have</b></p> <p>14 <b>reporters that were contributing articles to</b></p> <p>15 <b>the Tempo section while you were City</b></p> <p>16 <b>editor?</b></p> <p>17 A I think some may have. I don't</p> <p>18 recall any specific examples of it.</p> <p>19 <b>Q Were you in a position to formulate</b></p> <p>20 <b>an opinion about the Tempo section and how</b></p> <p>21 <b>it was done?</b></p> <p>22 A Yes, I saw it.</p> <p>23 <b>Q What was your view of it? Did you</b></p> <p>24 <b>think it was a well done section?</b></p> <p>25 MR. LERNER: Objection.</p> <p style="text-align: right;">TSG Reporting - Worldwide 877-702-9580</p> |



1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----)  
5 AUSTIN FENNER and )  
6 IKIMULISA LIVINGSTON, )

7 Plaintiff, ) 09 CV 9832

8 ) (BSJ) (RLE)

9 vs. )

10 NEWS CORPORATION, NYP HOLDINGS, )  
11 INC., d/b/a THE NEW YORK POST )  
12 and DAN GREENFIELD and MICHELLE )  
13 GOTTHELF, )

14 Defendants. )  
15 -----)

16 DEPOSITION OF JESSE ANGELO  
17 New York, New York  
18 Friday, April 5, 2013  
19  
20  
21  
22  
23

24 Reported by:  
25 JOMANNA DeROSA, CSR  
JOB NO. 59957

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1 J. ANGELO  
 2 Q. Right. After Mr. Murdoch  
 3 approached you about that position, did you talk  
 4 with anyone else at The Post, News Corp. or any of  
 5 their affiliates, before assuming your duties as  
 6 publisher?  
 7 MR. LERNER: About taking that  
 8 position?  
 9 MR. PEARSON: Yes.  
 10 A. Before I accepted the position?  
 11 Q. Yes.  
 12 A. Not that I recall. I mean, I don't  
 13 have any specific memory of speaking to anybody  
 14 else at The Post after that.  
 15 Q. Okay. And you began work as  
 16 publisher at The Post in or around mid-December of  
 17 2012. Is that right?  
 18 A. That is correct, yes.  
 19 Q. Okay. And what are your duties as  
 20 publisher at The Post?  
 21 A. I run the business.  
 22 Q. Okay. What does that mean, if you  
 23 could elaborate?  
 24 A. The publisher of a newspaper is  
 25 akin to the Chief Executive Officer of a business.  
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1 J. ANGELO  
 2 A. I worked with her at The New York  
 3 Post.  
 4 Q. And are you aware of what  
 5 Ms. Livingston's last position with The New York  
 6 Post was?  
 7 A. Yes.  
 8 Q. And what was that?  
 9 A. She was a reporter.  
 10 Q. Okay. Was she a particular kind of  
 11 reporter or assigned to a particular beat?  
 12 A. I believe she was a general  
 13 assignment reporter.  
 14 Q. Okay. And at the time of -- well,  
 15 actually, let's start here.  
 16 Approximately when, if at any time,  
 17 did Ms. Livingston's employment with The New York  
 18 Post, as a general assignment reporter, end?  
 19 A. Kim was dismissed for gross  
 20 misconduct in -- I believe it was the end of  
 21 February.  
 22 Q. Okay. At the time of her  
 23 termination, how would you describe  
 24 Ms. Livingston's skill level as a general  
 25 assignment reporter?  
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1 J. ANGELO  
 2 Q. Okay. As part of your duties as  
 3 publisher, do you evaluate the performance of The  
 4 Post's reporters?  
 5 A. No.  
 6 Q. Okay.  
 7 A. Not as a standard, not as a matter  
 8 of course, no.  
 9 Q. Okay. Do you have the authority to  
 10 hire and fire reporters at The Post?  
 11 MR. LERNER: Objection. You can  
 12 answer.  
 13 A. As CEO of the business I have the  
 14 authority to hire and fire anybody I like.  
 15 Q. And do you know who Ikimulisa or  
 16 Kim Livingston is?  
 17 A. Yes.  
 18 Q. Okay. And who is she?  
 19 A. She was a reporter at The New York  
 20 Post.  
 21 Q. Okay. How long have you known  
 22 Ms. Livingston, if you know her at all?  
 23 A. Over a decade.  
 24 Q. Okay. How did you first become  
 25 acquainted with her?  
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1 J. ANGELO  
 2 A. Again, I didn't supervise or  
 3 evaluate her. I'm not in a position to say.  
 4 Q. Okay. So, is it your testimony  
 5 that since you became publisher of The Post you're  
 6 not aware of Ms. Livingston's performance level as  
 7 a general assignment reporter?  
 8 A. That is correct. I'm not aware of  
 9 how she was performing.  
 10 Q. Do you know who Ms. Livingston's  
 11 supervisor was at the time of her termination?  
 12 A. I believe it was Dan Greenfield  
 13 and/or Michelle Gotthelf. I don't know exactly  
 14 who she directly reported to, though.  
 15 Q. Okay. And do you know who made the  
 16 decision to terminate Ms. Livingston's employment?  
 17 A. Yes.  
 18 Q. And who is that?  
 19 A. Me.  
 20 Q. And did you make that decision  
 21 unilaterally?  
 22 MR. LERNER: Objection to form.  
 23 A. Okay. Can you be more specific  
 24 about "unilaterally"?  
 25 Q. Sure. Did you alone make the  
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**J. ANGELO**  
**decision to terminate Ms. Livingston's employment?**

A. Yes.

**Q. Did you meet with Ms. Livingston about her termination at any time?**

A. Yes.

**Q. Okay. And when was that?**

A. On the day she was terminated.

**Q. Okay. We'll talk about the termination meeting in a little while. But prior to that termination meeting, and since you became publisher at The Post, did you have any discussions or correspondence with Ms. Livingston?**

A. No, not that I recall.

**Q. Since the time you became publisher at The Post, up until Ms. Livingston's termination, did you have any discussions with anybody else at The Post about Ms. Livingston's job performance?**

A. No, not that I recall.

**Q. Do you know what mystery shopping is?**

A. I have a vague understanding of it.

**Q. Okay. What's your understanding of what mystery shopping is?**

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**J. ANGELO**

A. My understanding is that is when somebody is paid to go into a store or interact with a business, I guess, telephonically or via the Internet, and test out what the customer service is like, what kind of reactions they get, how the people perform in their duties at the shop.

**Q. Have you ever done any mystery shopping yourself?**

A. My wife might think I have with some of the gifts I give her, but, no, I have not done any mystery shopping.

**Q. Okay. And are you aware of anyone else among your acquaintances, or anyone among your acquaintances who have done mystery shopping?**

A. No.

**Q. Okay. Are you aware of whether or not Ms. Livingston has ever mystery shopped?**

A. Yes.

**Q. Okay. And are you aware of whether or not she's ever mystery shopped for TD or Commerce Bank?**

A. Yes.

**Q. Okay. And are you aware that she**  
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**J. ANGELO**  
**has, in fact, done that?**  
A. Yes.  
**Q. Okay. And are you aware of whether or not Ms. Livingston has ever mystery shopped for a company called Shop 'n Chek?**

A. Yes.

**Q. And has she done that?**

A. Yes.

**Q. Okay. Do you know what the mystery shopping that Ms. Livingston did for TD or Commerce Bank entailed; how it worked?**

MR. LERNER: Objection. Form.

A. I know that while she was being employed by The New York Post and turning in time sheets that she was working for The New York Post she was, in fact, doing paid work on hundreds and hundreds of occasions for these mystery shopping outfits. I don't know what they're -- companies I guess they're called.

**Q. Are you aware of whether or not Ms. Livingston received payments in connection with her mystery shopping on a W-2 or 1099 basis?**

A. Can you repeat the question, please?

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Page 25

**J. ANGELO**

MR. PEARSON: Sure. Could the question be read back?

(The requested portion of the record was read.)

A. No, I'm not aware of that.

**Q. Okay. And are you able to describe for me what Ms. Livingston actually did when she would perform or conduct mystery shops for TD or Commerce Bank?**

MR. LERNER: Objection.

MR. PEARSON: You may answer.

THE WITNESS: Can you read the question back, please?

(The requested portion of the record was read.)

A. No, I never witnessed it, but I know she wasn't working for The New York Post as she was supposed to be doing.

(Recess taken.)

**Q. Are you aware of what was entailed in Ms. Livingston's mystery shopping for Shop 'n Chek?**

A. The very fact that she was doing mystery shopping, a paid job for somebody else

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1 J. ANGELO  
2 when she was supposed to be working for The New  
3 York Post, is a huge problem.

4 MR. PEARSON: All right. I'd like  
5 that marked as nonresponsive.

6 **Q. Mr. Angelo, are you aware of what**  
7 **was entailed in Ms. Livingston's mystery shopping**  
8 **for Shop 'n Chek?**

9 MR. LERNER: Objection.

10 MR. PEARSON: You may answer.

11 MR. LERNER: On each occasion, on a  
12 particular occasion? I mean, she went into  
13 different stores?

14 MR. PEARSON: Does he have any  
15 knowledge of what was entailed in mystery  
16 shopping for Shop 'n Chek by Ms. Livingston.

17 MR. LERNER: You can answer however  
18 you want. You can answer as generally or as  
19 specifically as you can, because it's an open  
20 question.

21 A. What precisely she did when she was  
22 being paid by somebody else while she was  
23 dishonestly saying that she was working for me on  
24 hundreds and hundreds of occasions is the point.

25 What precisely she did when she  
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1 J. ANGELO  
2 **portion of a deposition taken of Ms. Livingston**  
3 **from early in 2012?**

4 A. Not that I recall.

5 **Q. Are you aware that Ms. Livingston**  
6 **was deposed in early 2012?**

7 A. No. I mean, not really.

8 **Q. Were you aware that Ms. Livingston**  
9 **had given any deposition in connection with this**  
10 **case prior to the one that she gave this year**  
11 **concerning her mystery shopping?**

12 MR. LERNER: Was he aware when?

13 **Q. Were you aware, prior to**  
14 **Ms. Livingston's termination, at any time that she**  
15 **had previously been deposed in connection with**  
16 **this matter?**

17 A. I don't recall any specific  
18 awareness of her having given a deposition  
19 previous to that.

20 **Q. Okay. So, you didn't know that she**  
21 **had been deposed, other than her deposition**  
22 **regarding mystery shopping?**

23 A. Again, not that I recall. I mean,  
24 is it possible that I knew that and forgot? I  
25 don't know. I have no recollection of her having

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1 J. ANGELO  
2 walked into a store, being paid by somebody to do  
3 it when she was being paid by me, I don't know  
4 precisely what she did there, but I don't find it  
5 relevant. Any paid employment that she was doing  
6 somewhere else is a problem.

7 **Q. All right. So, Mr. Angelo, you're**  
8 **not aware specifically what she did for Stop 'n**  
9 **Chek then? Is that your testimony then?**

10 MR. LERNER: Objection.

11 A. Correct.

12 **Q. How did you become aware of**  
13 **Ms. Livingston's mystery shopping?**

14 A. From reading the transcript of her  
15 deposition.

16 **Q. Okay. Which transcript or**  
17 **transcripts were those?**

18 A. I don't know if there's multiple --  
19 I read the transcript of the deposition she gave  
20 about mystery shopping.

21 **Q. Okay. So, the transcript you read,**  
22 **was that for a deposition taken this year of**  
23 **Ms. Livingston?**

24 A. I believe so, yes.

25 **Q. Okay. Did you ever view any**  
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1 J. ANGELO  
2 given depositions before or having looked at them.  
3 I don't know.

4 **Q. To your knowledge, is anyone else**  
5 **at The New York Post aware that Ms. Livingston**  
6 **mystery shopped during her employment at the**  
7 **paper?**

8 A. I don't know.

9 **Q. Is Amy Scialdone aware of it?**

10 A. Yes.

11 **Q. Okay. Anyone else?**

12 A. I don't know.

13 **Q. Have you discussed Ms. Livingston's**  
14 **mystery shopping with anyone else at The New York**  
15 **Post?**

16 A. No.

17 **Q. Apart from Ms. Scialdone or did you**  
18 **discuss it with Ms. Scialdone?**

19 A. Can you define "discuss"?

20 **Q. What does the word "discuss" mean**  
21 **to you, Mr. Angelo?**

22 A. I informed Ms. Scialdone that this  
23 behavior had occurred and, therefore, I was  
24 terminating Ms. Livingston. I did not discuss  
25 with her the matter.

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1 J. ANGELO  
 2 MR. LERNER: And all of these  
 3 answers are premised by other than with  
 4 counsel?  
 5 THE WITNESS: Of course.  
 6 MR. PEARSON: That's correct.  
 7 THE WITNESS: Yes.  
 8 **Q. At no time am I asking for the**  
 9 **substance of any communication you've had with**  
 10 **legal counsel.**  
 11 A. Okay.  
 12 **Q. That is not how I roll.**  
 13 **Are you aware of what period of**  
 14 **time -- actually, let's do this.**  
 15 **Are you aware of when**  
 16 **Ms. Livingston began mystery shopping for any of**  
 17 **the -- you know, for the first time? I'm sorry.**  
 18 **When she began mystery shopping for the first**  
 19 **time.**  
 20 A. I know when she began mystery  
 21 shopping while she was supposed to be working for  
 22 The New York Post. I don't know if she previously  
 23 mystery shopped to that in her life. I don't know  
 24 if she previously mystery shopped to when she was  
 25 doing it for -- while she should have been working  
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1 J. ANGELO  
 2 **during her employment at The New York Post, was**  
 3 **she also performing duties and work for The New**  
 4 **York Post?**  
 5 MR. LERNER: Objection.  
 6 A. Yeah, I'm sorry. That's very  
 7 vague.  
 8 MR. LERNER: It's not clear if  
 9 you're asking about -- when you say "when she  
 10 was mystery shopping," if you're talking about  
 11 a span of months or years, or if you're  
 12 talking about particular hours in a day.  
 13 MR. PEARSON: That's fine. I can  
 14 rephrase. I understand the objection now.  
 15 **Q. Okay. So, from, say, 2005 to 2013**  
 16 **did Ms. Livingston perform duties as an employee**  
 17 **of The New York Post?**  
 18 A. Yes.  
 19 **Q. Okay. Were any stories written by**  
 20 **Ms. Livingston published in The New York Post?**  
 21 MR. LERNER: Objection.  
 22 A. Ever?  
 23 **Q. From 2005 to 2013.**  
 24 A. I assume so, yes.  
 25 MR. LERNER: Don't guess.  
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1 J. ANGELO  
 2 for The New York Post. I don't know if she did it  
 3 in some previous time in her life.  
 4 **Q. Do you know when she first began**  
 5 **mystery shopping during her employment at The**  
 6 **Post?**  
 7 A. Yes.  
 8 **Q. Okay. When was that?**  
 9 A. My understanding is that it was  
 10 2005.  
 11 **Q. Okay. And, again, apart from**  
 12 **substantive discussions with counsel, what is that**  
 13 **understanding based upon?**  
 14 A. The transcript of her deposition,  
 15 and records that I saw of times that she mystery  
 16 shopped when she should have been, and in fact was  
 17 telling The New York Post that she was working for  
 18 The New York Post.  
 19 **Q. Okay. During the time that**  
 20 **Ms. Livingston was mystery shopping, was she, in**  
 21 **fact, performing work for The New York Post?**  
 22 A. Can you repeat the question,  
 23 please?  
 24 **Q. Certainly. During the period of**  
 25 **time that Ms. Livingston was mystery shopping**  
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1 J. ANGELO  
 2 **Q. Did Ms. Livingston have stories**  
 3 **published in The New York Post since you became**  
 4 **publisher in mid-December 2012?**  
 5 A. I don't know.  
 6 **Q. Did you ever discuss, since you**  
 7 **became publisher at The Post, any freelance work**  
 8 **done by Ms. Livingston for any other company or**  
 9 **publication?**  
 10 A. No.  
 11 **Q. And who is the previous publisher**  
 12 **of The New York Post before you?**  
 13 A. Paul Carlucci.  
 14 **Q. And do you know whether**  
 15 **Mr. Carlucci had any knowledge of Ms. Livingston's**  
 16 **mystery shopping?**  
 17 A. I don't know.  
 18 **Q. Did you ever discuss Ms. Livingston**  
 19 **in any capacity with Mr. Carlucci?**  
 20 A. No.  
 21 **Q. Did you ever discuss**  
 22 **Ms. Livingston, in any capacity, with Michelle**  
 23 **Gotthelf?**  
 24 MR. LERNER: At any time?  
 25 MR. PEARSON: At any time. Let's  
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1 J. ANGELO  
 2 Ms. Livingston wasn't terminated  
 3 for moonlighting. And I'm not even sure we  
 4 have a definition of "moonlighting."  
 5 MR. PEARSON: Let's revise it.  
 6 Well, the witness always testifies according  
 7 to his understanding.  
 8 **Q. Are you aware of any New York Post**  
 9 **employees having been terminated for moonlighting?**  
 10 MR. LERNER: What is moonlighting?  
 11 A. Again, can you define  
 12 "moonlighting" for me, please?  
 13 **Q. Well, do you have an understanding**  
 14 **of the term "moonlighting" and what that means?**  
 15 MR. LERNER: I'm an employment  
 16 lawyer and I don't even know what it means.  
 17 A. Again, I know what it could mean.  
 18 **Q. Okay. And what's your belief or**  
 19 **understanding as to what the term "moonlighting"**  
 20 **refers to?**  
 21 A. It can refer to doing paid work for  
 22 another employer.  
 23 **Q. Okay. At the same time as working**  
 24 **for another company?**  
 25 A. Correct.  
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1 J. ANGELO  
 2 **Q. Mr. Angelo, are there any rules or**  
 3 **guidelines regarding when New York Post reporters**  
 4 **are to take lunch during the workday?**  
 5 MR. LERNER: Wait a minute. Go  
 6 ahead and answer that question and then I want  
 7 to bring up something from the prior segment.  
 8 **Q. Mr. Angelo, if you could respond to**  
 9 **the previous question.**  
 10 A. Can you repeat it? I'm sorry.  
 11 MR. PEARSON: It can be read back,  
 12 yes.  
 13 (The requested portion of the  
 14 record was read.)  
 15 A. Again, different reporters work  
 16 different shifts. So, some people work 3:00 to  
 17 midnight, so it's not always lunch.  
 18 **Q. So, I mean, are you aware of any**  
 19 **restrictions on when a reporter who would, say,**  
 20 **work a 9:00 to 5:00 shift would take lunch?**  
 21 A. I don't know.  
 22 MR. LERNER: Just before the break  
 23 there were a couple of questions and answers  
 24 that Mr. Angelo wanted to clarify his answers  
 25 on.  
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1 J. ANGELO  
 2 **Q. And could it refer to performing**  
 3 **paid services for one entity or employer, apart**  
 4 **from your primary employment?**  
 5 A. It could, yes.  
 6 **Q. Okay. Are you aware of -- and so,**  
 7 **just for clarity of the record, with that, are you**  
 8 **aware of any New York Post employees having been**  
 9 **terminated for moonlighting?**  
 10 A. No.  
 11 **Q. Are you aware of any New York Post**  
 12 **employees having been terminated, and specifically**  
 13 **reporters having been terminated for dereliction**  
 14 **of duty?**  
 15 A. Not that I recall.  
 16 **Q. Are you aware of any New York Post**  
 17 **reporters having been terminated for not spending**  
 18 **enough time on their reporting duties?**  
 19 A. Not that I recall.  
 20 **Q. Are you aware of any New York Post**  
 21 **employees having been terminated for or in**  
 22 **connection with any freelance work that they have**  
 23 **done?**  
 24 A. Not that I recall.  
 25 (Recess taken.)  
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1 J. ANGELO  
 2 The two questions were:  
 3 "QUESTION: Are you aware of any  
 4 New York Post employees having been  
 5 terminated, and specifically reporters, for  
 6 material dereliction of duty?  
 7 "ANSWER: "Not that I recall.  
 8 "QUESTION: Are you aware of any  
 9 New York Post employees having been terminated  
 10 for not spending enough time on their  
 11 reporting duties?  
 12 "ANSWER: Not that I recall."  
 13 And Mr. Angelo just wanted to  
 14 clarify his understanding of the question when  
 15 he answered.  
 16 MR. PEARSON: Okay. Mr. Angelo?  
 17 THE WITNESS: I understood that  
 18 question to mean not including Kim Livingston.  
 19 **Q. That's fine.**  
 20 A. Okay.  
 21 **Q. Okay. Understood. So, is it then**  
 22 **your testimony that Ms. Livingston was terminated**  
 23 **for material dereliction of duty?**  
 24 A. In part. She was terminated for  
 25 gross misconduct, dereliction of duty, dishonesty,  
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1 J. ANGELO  
2 on hundreds and hundreds of occasions going and  
3 doing paid work for another employer, not telling  
4 her supervisors about it.

5 MR. PEARSON: Okay. I believe the  
6 witness said that gross misconduct,  
7 dereliction of duty, dishonesty, and then he  
8 went into the part about --

9 MR. LERNER: Yeah.

10 Q. Okay. After you learned about  
11 Ms. Livingston's mystery shopping, did you ever  
12 consider asking her to stop doing that, rather  
13 than terminating her employment?

14 A. No.

15 Q. Did you consider any other  
16 discipline, apart from termination?

17 A. It was clear to me, given the scope  
18 of her misdeeds, that termination was the right  
19 course of action.

20 Q. Okay. How did you reach that  
21 conclusion?

22 MR. LERNER: Objection. You can  
23 answer.

24 A. Again, the pattern of her behavior,  
25 what she did, the dishonesty that she showed to  
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1 J. ANGELO  
2 you're doing it during the hours when you're  
3 supposed to be writing for The New York Post.

4 Q. So, that is current New York Post  
5 policy, that any freelance work must be cleared  
6 with the reporter's direct supervisor?

7 A. Yes.

8 Q. Okay. How long has that policy  
9 been in effect?

10 A. As long as I can remember.

11 Q. So, has it been in effect for more  
12 than ten years, do you believe -- or excuse me --  
13 has it been in effect for more than, say, five  
14 years?

15 A. Yes.

16 Q. Are you aware of any reporters who  
17 do freelance work at The Post? Excuse me. Do you  
18 know any New York Post reporters who do freelance  
19 work for other outlets or publications?

20 MR. LERNER: Freelance writing?

21 MR. PEARSON: Yes, freelance  
22 writing.

23 A. No.

24 Q. Are you aware of any New York Post  
25 reporters at any time having done freelance

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1 J. ANGELO  
2 the organization was -- left me no choice but to  
3 terminate her. We have a lot of employees who  
4 work incredibly hard, and they don't leave their  
5 post in the middle of the day and go do paid  
6 employment for somebody else when they should be  
7 reporting for The New York Post. I couldn't  
8 justify keeping that person on my staff.

9 Q. Are you aware of Ms. Livingston  
10 having done any freelance writing?

11 A. I don't have any awareness of that.

12 Q. Ms. Livingston has testified that  
13 during her employment at The Post at times she did  
14 freelance writing for, among other outlets, Heart  
15 and Soul Magazine, BET.com.

16 If that is a fact that  
17 Ms. Livingston performed that freelance work,  
18 would you consider that a dereliction of duty?

19 MR. LERNER: Objection.

20 A. Any freelance work needs to be  
21 cleared with a supervisor. So, if she did it, she  
22 should have asked for permission to do it.

23 Just like any other outside  
24 employment, such as mystery shopping, would have  
25 to be cleared with the supervisor, especially when  
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1 J. ANGELO  
2 writing for other outlets?

3 A. Yes.

4 Q. Okay. Who are they?

5 A. I don't have a recollection of  
6 specific reporters doing it, but from time to time  
7 when I was city editor someone would ask if they  
8 could write a freelance piece, and we would  
9 determine whether or not we thought it was  
10 appropriate.

11 Q. Are you aware of any New York Post  
12 reporters having done freelance work for other  
13 outlets without asking for permission?

14 A. Not that I can recall.

15 Q. Are you aware of any New York Post  
16 employee having been disciplined for violation of  
17 the policy regarding asking a supervisor  
18 permission before engaging in outside work or  
19 writing?

20 A. I'm not aware of that, no.

21 Q. Apart from Ms. Livingston, of  
22 course.

23 A. Yes. Thank you.

24 Q. Was anyone other than legal  
25 counsel -- I'll rephrase that question in general.

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1 J. ANGELO  
2 THE WITNESS: Can you repeat it,  
3 please?  
4 (The requested portion of the  
5 record was read.)  
6 MR. LERNER: Answer, if you know.  
7 A. I don't know.  
8 **Q. When did you make the decision to**  
9 **terminate Ms. Livingston's employment?**  
10 A. February 2013.  
11 **Q. About how many days before her**  
12 **termination did you make that decision?**  
13 A. It was the weekend. I made the  
14 decision on a weekend, and we contacted her on the  
15 Monday.  
16 **Q. So, just a day or two before her**  
17 **termination you made that decision?**  
18 A. Yes. It was that weekend.  
19 **Q. Did you prepare a letter to**  
20 **Ms. Livingston in connection with her termination?**  
21 A. A letter was drafted in connection  
22 with her termination.  
23 **Q. Did you draft that letter?**  
24 A. The letter was drafted, and in  
25 conjunction with counsel I reviewed it.  
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1 J. ANGELO  
2 **Q. So, Mr. Angelo, at any point did**  
3 **you change your mind regarding whether or not**  
4 **Ms. Livingston should, in fact, be terminated?**  
5 MR. LERNER: Objection.  
6 A. No.  
7 **Q. Okay. And when did you first learn**  
8 **about her mystery shopping?**  
9 A. At the end of that week. I can't  
10 remember if it was the Thursday or the Friday.  
11 And then I made the decision over the weekend, and  
12 did the termination -- well, we initiated it on  
13 the Monday.  
14 **Q. Have you provided termination**  
15 **letters similar to the one given to Ms. Livingston**  
16 **to any other employee terminated at The New York**  
17 **Post?**  
18 MR. LERNER: Objection.  
19 A. I don't recall.  
20 **Q. Have you had termination meetings,**  
21 **similar to the one you had with Ms. Livingston,**  
22 **with any other employee terminated from The Post?**  
23 MR. LERNER: Objection.  
24 A. Yes.  
25 **Q. Okay. Did you have such**  
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1 J. ANGELO  
2 **Q. So, did you write the original**  
3 **draft of that letter?**  
4 A. No.  
5 **Q. Did you revise that letter?**  
6 A. Yes.  
7 **Q. Did you revise multiple versions of**  
8 **that letter?**  
9 MR. LERNER: Objection.  
10 A. I don't recall.  
11 **Q. And how did you revise the letter?**  
12 MR. LERNER: Objection. That would  
13 get into attorney-client privileged  
14 information.  
15 MR. PEARSON: I mean, is the  
16 witness instructed not to answer? What's the  
17 situation?  
18 MR. LERNER: I mean, Larry, do you  
19 think that that question how he revised that  
20 letter that was being written in conjunction  
21 with counsel is an appropriate question?  
22 MR. PEARSON: I don't know. I'm  
23 trying to determine whether -- let's see if we  
24 can get the information I'm looking for this  
25 way.  
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1 J. ANGELO  
2 **termination meetings with all of the other nine**  
3 **employees that you mentioned earlier who were**  
4 **terminated?**  
5 A. I'm sorry. When I answered the  
6 first question, forgive me, I was talking about  
7 terminations in the newsroom. So, I thought you  
8 were referring to the one reporter I had referred  
9 to previously. So, now you've changed it to this  
10 other thing, so I've just -- can I look at my  
11 answer to the -- I don't know if my answer to the  
12 first thing covers -- do you follow what I'm  
13 saying?  
14 **Q. Well, I'll give you a chance to**  
15 **clarify.**  
16 MR. LERNER: I think the problem  
17 was the question contained the word "similar,"  
18 which I don't think anybody actually knows  
19 what "similar" means in this context.  
20 So, let's start with a new  
21 question.  
22 **Q. Have you had termination meetings**  
23 **with other employees terminated from The New York**  
24 **Post?**  
25 A. Yes.  
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J. ANGELO

**Q. Okay. Did you have termination meetings with the other nine employees who you mentioned who were terminated in connection with the restructuring?**

A. Some of them.

**Q. Okay. Was there a reason you met with some and not others?**

A. Yes.

**Q. What was that reason or reasons?**

A. There were a number of terminations that were being done at the same time as part of this restructuring, and I just physically couldn't be in all nine of them. And some of the people I didn't know, and it was just the way we handled it.

**Q. Okay. What's your understanding regarding the period of time during which Ms. Livingston performed mystery shopping while employed at The Post?**

A. I don't understand. My understanding of a time period? What does that mean?

**Q. Sure. Do you know during which years Ms. Livingston performed mystery shopping**  
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J. ANGELO

**while she was employed at The Post at the same time?**

A. Yes.

**Q. Okay. Which years were those?**

A. My understanding is that it was from 2005 to 2010.

**Q. So, is it your belief that Ms. Livingston did not conduct any mystery shopping from 2011 through the present?**

A. I don't know.

**Q. So, you're not aware of whether or not Ms. Livingston still mystery shops?**

A. No, I'm not aware if she does or doesn't.

**Q. Are you aware of any other New York Post employee being terminated for conduct they engaged in as much as three years prior to their termination?**

MR. LERNER: Objection.

A. I think very clearly had this five-year pattern of misconduct been revealed at any time, that employee would be terminated. Had anyone known -- I mean, obviously, Kim took great lengths to deceive her supervisors to the  
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J. ANGELO

extracurricular work she was doing while she should have been working for The New York Post. Had they known, obviously, she would have been terminated.

**Q. Did you review Ms. Livingston's entire deposition transcript?**

A. I read the whole thing, yes.

**Q. Was Ms. Livingston's termination approved by anybody else at The New York Post or News Corporation?**

A. No.

**Q. Was Ms. Livingston's termination based, in part, on her writing skills?**

A. No.

**Q. Was her termination based, in part, on the number of stories that she had appear in The New York Post?**

A. No.

**Q. Was it based, in part, on the number of story ideas that she pitched to editors of The Post?**

A. No. It was based on her spending many hours, hundreds and hundreds of occasions, leaving her post when she was supposed to be

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J. ANGELO

working for The Post, even on paid sick leave, three occasions on paid sick leave, leaving and going and doing paid employment for somebody else without telling her supervisors about it.

**Q. New York Post employees who take paid time off for sick days, are they prohibited from engaging in any other gainful activity on the days that they take a paid sick day?**

A. I'm not aware of any policy that speaks to that. I think the expectation of any employer is that if an employee says they're sick, and they're going to take a paid sick day, that they're not going to go work for somebody else for money.

**Q. Is it the expectation of The Post that when an employee takes a paid sick day, that they are confined to their home, due to their illness?**

MR. LERNER: Objection.

A. You're asking me about hypothetical situations of somebody's hypothetical sick day.

**Q. I'm asking about your expectation as a supervisor at The Post?**

A. My expectation is they're sick.

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